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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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2007 JUL 13 P 4: 04

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
WATER UTILITY OF GREATER TONOPAH,
INC., AN ARIZONA CORPORATION, FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-02450A-06-0253

RESPONSE TO STAFF REPORT

The Water Utility of Greater Tonopah ("Tonopah") agrees with much of the Staff Report dated June 29, 2007. However, Tonopah believes that minor modifications or clarifications should be made regarding two of Staff's proposed conditions.

Staff Condition 5. This condition requires that Tonopah obtain an Aquifer Protection Permit ("APP") for the proposed water treatment plant within 18 months of the final decision in this matter. Based on the currently anticipated schedule, it may be difficult to meet this timeframe. Tonopah requests that this condition be extended to 24 months. In addition, Tonopah requests that this condition be clarified. The APP is for a pond that will be built as part of the water treatment plant. The pond is covered by a Type 3 General Permit issued by the Arizona Department of Environmental Quality ("ADEQ") under "A.A.C. R18-9-D301. 3.01 General Permit: Lined Impoundments". This general permit will be the APP for the pond. Under the Type 3 General Permit, ADEQ will issue a discharge authorization letter. See A.A.C. R18-9-A301(A)(3)(c) and A.A.C. R18-9-A301(C)(2). Tonopah requests clarification that this ADEQ discharge authorization letter will satisfy this condition.

Arizona Corporation Commission
DOCKETED

JUL 13 2007

DOCKETED BY	nr
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ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
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1 **Staff Condition 8.** This condition requires that Tonopah file a cross-connection /
2 backflow prevention tariff within 45 days of the final decision in this matter. Tonopah agrees with
3 this condition. However, the Staff Report also states that the tariff "should generally conform to
4 the sample tariff found on the Commission's web site." Tonopah's affiliate, Water Utility of
5 Greater Buckeye ("WUGB") has a backflow prevention program that has been approved by the
6 Maricopa County Environmental Services Department ("MCESD"). A copy of this program is
7 attached as Exhibit A. This MCESD-approved program is generally similar to Staff's sample
8 tariff, but does not exactly match the sample tariff. Tonopah's intent is to prepare a proposed tariff
9 based on the WUGB program. Tonopah requests a clarification indicating that a proposed tariff
10 based on the MCESD-approved backflow prevention program would be acceptable.

11
12 RESPECTFULLY SUBMITTED this 13th day of July 2007.

13
14 ROSHKA DEWULF & PATTEN, PLC

15
16 By 

17 Michael W. Patten
18 Timothy J. Sabo
19 One Arizona Center
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21 Phoenix, Arizona 85004

22
23
24 Original and 13 copies of the foregoing
25 filed this 13th day of July 2007 with:

26 Docket Control
27 Arizona Corporation Commission
 1200 West Washington Street
 Phoenix, Arizona 85007

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1 Copy of the foregoing hand-delivered/mailed
2 this 13th day of July 2007 to:

3 Lyn Farmer, Esq.
4 Chief Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 1200 West Washington
8 Phoenix, Arizona 85007

9 Christopher C. Kempley
10 Chief Counsel, Legal Division
11 Arizona Corporation Commission
12 1200 West Washington
13 Phoenix, Arizona 85007

14 Ernest G. Johnson, Esq.
15 Director, Utilities Division
16 Arizona Corporation Commission
17 1200 West Washington
18 Phoenix, Arizona 85007


19 By 
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EXHIBIT A

WATER UTILITY OF GREATER BUCKEYE

Backflow-Prevention Program

Rationale

In accordance with Arizona Administrative Code (AAC) R18-04-115, a public water system shall protect its system from contamination caused by backflow through unprotected cross-connections by requiring the installation and periodic testing of backflow-prevention assemblies. AAC R14-2-405.B.6 requires that any customer's lines be installed so as to prevent cross-contamination or backflow.

Accordingly, the public water systems of the Water Utility of Greater Buckeye will require backflow-prevention assemblies to be installed and/or retrofitted at the service connection of those establishments where there exists a possibility of contamination caused by backflow through unprotected cross-connections and/or which are not specifically exempted by the subject rule.

In all cases, the need for and the type of backflow prevention assembly will be specified by the water utility, and will be located on the customer's side of the service connection. The approved backflow-prevention device will be acquired, installed, owned, tested and maintained by the customer. The minimum level of backflow protection that is provided to protect a public water system shall be the level recommended in:

Section 7.2 of the Manual of Cross-Connection Control
Ninth Edition, USC-FCCCHR
KAP-200 University Park MC-2531
Los Angeles, California 90089-2531
December 1993 (and no future editions or amendments)

The type of backflow-prevention assembly (BPA) installed will be determined by the relative hazards posed by each customer account in its category. Inspections and testing of installed BPA's must be conducted by a certified backflow tester who shall submit a written report to the utility. All BPA's will be subjected to annual inspections and testing to be performed by a certified backflow tester.

Procedure for Existing Customers

All customer accounts will be reviewed by customer listing and subject to on site surveys as needed, and placed into one of five categories.

Category #1: Animal clinics, car washes, laundries, pest control, some restaurants, etc.
BPA required: **Reduced Pressure Backflow Assembly**

Category #2: Restaurants, schools, medical/dental offices, retail establishments
BPA required: **Reduced Pressure Backflow Assembly or Double Check**

Category #3: Multifamily residences with common plumbing and a master meter
BPA required: **Double Check**

Category #4: Non chemical dispensing irrigation systems and commercial horse farms
BPA required: **Double Check or Vacuum Breaker**

Category #5: Class 1 and 2 fire protection systems
BPA required: **To be determined**

The type of BPA required will depend upon the level of potential contamination. If the potential is low, then a lower grade of BPA may be installed dependant upon the approval of the utility.

Non-Exempt Single Family Residences

If the following conditions exist in services to single family residences, backflow-prevention assemblies will be required:

1. Customer owns a private well and is served additionally by the utility
BPA required: **Double check or Vacuum breaker**
2. Zoned horse and/or animal acreage properties
BPA required: **Double check or Reduced Pressure**
3. Operating a home business whose business is subjected to hazardous materials
BPA required: **Double check or Reduced Pressure**
4. Residential properties where the potential for existing cross connection occurs –
landscape irrigation via reclaimed water
BPA required: **Double check or Reduced Pressure**

Procedure for New Construction

The Utility has sole the discretion to require the installation of a backflow-prevention assembly (BPA) as it deems necessary in order to protect the public water supply. This requirement and type of BPA will be determined at the plan review stage, and may be amended by a Cross-Connection Survey (see Appendix A) completed by the Utility.

Installation and Testing

The following types of notification will be provided to utility customers:

1. Information letter – This letter is for existing and new customers and explains backflow prevention and the need for compliance. See **Appendix B**.
2. Notice to install a backflow-prevention assembly – Initial notice sent to the customer after the utility establishes the customer's requirement to have a BPA determined by the survey results. See **Appendix C**.
3. Second notice to install or test a BPA – Reminder notice of the requirement to install or test. The customer is given notice to comply with this requirement within 45 days. **Appendix D**.
4. Final Notice to install or test a BPA – Final notice to the customer to comply with the requirement of the backflow-prevention program and a determination to disconnect service. See **Appendix E**.
5. Disconnection Notice – Notice to disconnect service with the date of disconnect if customer does not comply with the requirements of the backflow-prevention program. See **Appendix F**.

Termination of Service

All customers who fail to comply with the requirements of the backflow-prevention program will be notified in accordance with AAC R14-2-410 of the termination of their water service.

If service is terminated, service will not be restored until an approved BPA is installed and tested. Re-connection of service is also subject to the fees included in the Utility's approved tariff rate schedule.

Notice

The Backflow-prevention Program is subject to periodic review therefore the procedures may be changed or altered as the utility deems necessary in the protection of public health. All changes shall comply with the current and/or future laws as well as the rules and regulations of the regulatory agencies. Any and all changes in procedure shall be forwarded to the Maricopa County Environmental Services Department for review.

Appendix A

CROSS CONNECTION SURVEY

Date:

Customer:

Water service address:

Account #:

Meter #:

Does the property have a:

Private operating well or other alternate water supply	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Retention area (pond) supplied by potable water supply	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Automatic irrigation system or other facility with potential for dispensing chemical contamination	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Solar energy system	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Agricultural use or livestock (horses) related activity	YES <input type="checkbox"/>	NO <input type="checkbox"/>
All commercial business	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Home business using possible hazardous material	YES <input type="checkbox"/>	NO <input type="checkbox"/>

If you answered "YES" to any of the above, you are required to **INSTALL** a Backflow-prevention assembly. It must be **tested** at the time of installation and **ANNUALLY** thereafter. Reminder letters will be sent out each year prior to the anniversary date of the previous year's test.

Type of device required:

- Livestock - Double Check Assembly
- All others - Reduced Pressure Assembly

Thank you for your assistance in the protection of your water supply.

The Backflow-prevention program is instituted and enforced to help supply all of our customers with potable water that meets the requirements of the Federal Safe Drinking Water Act.

Appendix B

Backflow-Prevention Information

Dear Customer,

This letter is to inform you the Water Utility of Greater Buckeye will be implementing a backflow-prevention program in your service area.

What is backflow-prevention?

Backflow-prevention protects a public water supply from contamination caused by backflow through unprotected cross-connections. A Backflow-prevention program is a requirement of the Safe Drinking Water Act and AAC R18-4 *et seq.*

What is a Backflow-Prevention Program?

A Backflow-Prevention Program requires the installation and annual testing of backflow-prevention assemblies in all areas considered to be a potential cross-contamination hazard. A public water system shall maintain records of installations and tests performed on backflow-prevention assemblies in its service area. Records shall be retained by the public water system for at least three years and shall be made available for review by the Arizona Department of Environmental Quality (or its designee) upon request.

What is a backflow-prevention assembly device?

A backflow-prevention device is a device that prevents the reversal of flow when pressures change within a distribution system.

Who is Responsible for Acquiring, Installing, Maintaining and Testing a Backflow Prevention Assembly?

The Customer is responsible for acquiring, installing, maintaining and testing an approved BPA. Testing is required annually. The Customer must contact a certified installer in order to have the BPA properly installed. Installation and annual test certificates must be provided to the Utility.

Where is a backflow-prevention assembly installed?

A backflow-prevention assembly shall be installed as close as practicable to the service connection. (Usually just past the water meter on the customer's side).

Who is required to have a backflow-prevention assembly installed?

1. Any residential service connection with livestock on the premises.
2. Any residential service connection with on site irrigation.

3. Any residential service connection with a water supply that is not accepted as an additional source by the public water system or is not approved by ADEQ or its designee. (This source is commonly a private well).
4. All commercial establishments.
5. Any connections considered by ADEQ, MCESD or the Utility to be a hazard.

Who installs the backflow-prevention assemblies?

Installation and testing must be performed by a person who is currently certified as a general tester by the California-Nevada section of the American Water Works Association (CA-NV Section, AWWA), the Arizona State Environmental Technical Training (ASETT) Center, or other certifying authority approved by ADEQ or its designee.

Who will supply the installation and certification information?

Once you have hired a certified tester, the tester will provide the utility with the original certificate of installation and test. We recommend you retain a copy for your records. It is the customer's responsibility to provide proof of test and certification.

The information that must be supplied:

1. Assembly identification number and description,
2. Location
3. Date of test
4. Description of repairs and recommendations for repairs made by the tester, and
5. The tester's name and certificate number.

****Important Information****

In accordance with the Federal Safe Drinking Water Act Amendments of 1986 and the provisions of the Arizona Administrative Code R18-4-115, failure to comply with this requirement shall be sufficient cause for termination of your water service. Upon request the utility can provide you with a copy of the Arizona Administrative Code R18-4-115.

We appreciate your cooperation in this very important matter. If you have any questions feel free to contact our office at 623-580-9600.

Appendix C

NOTICE TO INSTALL AND TEST BACKFLOW PREVENTION ASSEMBLY

Date:

Customer:

Water service address:

Account #:

The Arizona Administrative Code, R18-04-115, as adopted by the Arizona Department of Environmental Quality for Cross-Connection requires mandatory installation and periodic testing of backflow assemblies, where it is determined that backflow is likely to occur.

In accordance with the Federal Safe Drinking Water Act Amendments of 1986 and the provisions of the R18-04-115, you are required to install and annually test one of the following approved backflow-prevention assemblies for the purpose of protecting the potable water supply from substances which could endanger public health.

- ☐ Double Check Valve Assembly
- ☐ Reduced Pressure Principal Device
- ☐ Pressure Vacuum Breaker

Reason for installation:

A list of reduced pressure principle backflow prevention assemblies that have been evaluated and approved by the Foundation for Cross-Connection Control and Hydraulic Research of the University of California should be available through certified plumbers. These assemblies have been adopted and approved by the State of Arizona and must be installed within **60** days from the date of this letter.

Backflow-prevention assemblies are to be purchased, installed, maintained and annually tested at the customer's expense. The backflow prevention assemblies must be **tested by a Certified Backflow-prevention Assembly Tester at the time of installation.** Once the assembly has been installed and tested you should receive a copy of the certification. The Certified Tester will need to forward the original test report to our office.

If you should have any questions or require further information, please contact the main office at 623-580-9600.

Thank you for your cooperation in this very important matter.

Appendix D

SECOND NOTICE

NOTICE TO INSTALL/ TEST BACKFLOW PREVENTION ASSEMBLY

Date:

Customer:

Water service address:

Account #

Dear Customer,

We recently wrote to you explaining the regulatory requirements for installing and /or testing your backflow-prevention assembly. Installing and /or testing your BFP assembly are of the utmost importance as it is in place to protect the public water supply from possible contamination. We previously sent you a notice to comply with the requirements of the Arizona Administrative Code R18-4-115 regarding the requirements of backflow-prevention.

If you have had your backflow-prevention assembly installed and / or tested, please forward the report to:

Water Utility of Greater Buckeye
21410 N. 19th Avenue Suite 201
Phoenix, AZ 85027

If you have not complied with the requirements, please call us with the approximate date you expect to have your BFP assembly tested. You are required to comply with this requirement within 45 days of this notice.

If you should have any questions or require further information, please contact our office at 623-580-9600.

Thank you for cooperation in this very important matter.

Appendix E

FINAL NOTICE

TO INSTALL AND TEST BACKFLOW PREVENTION ASSEMBLY

Date:

Customer:

Water service address:

Account #

Dear Customer,

We recently wrote to you explaining the regulatory requirements for installing and /or testing your backflow-prevention assembly. Installing and /or testing your BFP assembly are of the utmost importance as it is in place to protect the public water supply from contamination. We previously sent you 2 reminder notices to comply with the requirements of the Arizona Administrative Code R18-4-115 regarding the requirements of backflow-prevention.

If you have had your backflow-prevention assembly installed and / or tested, please forward the report to:

**Water Utility of Greater Buckeye
21410 N. 19th Avenue Suite 201
Phoenix, AZ 85027**

If you have not complied with the requirements, please call us with the approximate date you expect to have your BFP assembly tested. You are required to comply with this requirement within 15 days of this notice

Failure to comply with the requirements of the Backflow-prevention program will result in a disconnection of your service.

If you should have any questions or require further information, please contact our office at 623-580-9600.

Thank you for your cooperation in this very important matter.

Appendix F

DISCONNECT NOTICE

FAILURE TO INSTALL AND/OR TEST BACKFLOW PREVENTION
ASSEMBLY

Date:

Customer:

Water service address:

Account #

Dear Customer,

We recently wrote to you explaining the regulatory requirements for installing and /or testing your backflow-prevention assembly. Installing and /or testing your BFP assembly are of the utmost importance as it is in place to protect the public water supply from contamination. We previously sent you 3 reminder notices to comply with the requirements of the Arizona Administrative Code R18-4-115 regarding the requirements of backflow-prevention.

Our records indicate you have failed to comply with the requirements of the backflow-prevention program.

Your service will be **DISCONNECTED** on:

If you have had your backflow-prevention assembly installed and / or tested, please forward the report to:

Water Utility Of Greater Buckeye
21410 N. 19th Avenue Suite 201
Phoenix, AZ 85027

If your backflow-prevention assembly is scheduled for testing, please have the company performing the testing contact our office at the numbers listed below to avoid any service interruption.

If you should have any questions or require further information, please contact our office at 623-580-9600.

Thank you for your cooperation in this very important matter.